

# **Exhibit E**

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

BARBARA E. VARNER,  
Plaintiff,

vs.

COMMONWEALTH OF PENNSYLVANIA,  
NINTH JUDICIAL DISTRICT,  
CUMBERLAND COUNTY; CUMBERLAND  
COUNTY; S. GARETH GRAHAM,  
Individually, and JOSEPH  
OSENKARSKI, individually,  
Defendants.

CIVIL ACTION  
NO. 1:CV 01-0725

(JUDGE YVETTE KANE)

Deposition of: **DARBY CHRISTLIEB**

Taken by : Defendant

Date : April 28, 2003, 10:17 a.m.

Before : Emily Clark, RMR, Reporter-Notary

Place : Administrative Office of Pennsylvania  
Courts  
5034 Ritter Road  
Mechanicsburg, Pennsylvania

APPEARANCES:

DEBRA K. WALLET, ESQUIRE  
For - Plaintiff

ADMINISTRATIVE OFFICE OF PENNSYLVANIA COURTS  
BY: A. TAYLOR WILLIAMS, ESQUIRE  
For - Defendant Commonwealth of Pennsylvania  
Ninth Judicial District, Cumberland County

THOMAS, THOMAS & HAFFER  
BY: PAUL J. DELLASEGA, ESQUIRE  
For - Defendant Cumberland County

## STIPULATION

It is hereby stipulated by and between the respective parties that sealing, certification and filing are waived; and that all objections except as to the form of the question are reserved until the time of trial.

DARBY CHRISTLIEB, called as a witness, being duly sworn, was examined and testified, as follows:

BY MR. DELLASEGA:

Q. Have you testified before, Mr. Christlieb?

A. Yes, I have.

Q. Okay. How are you currently employed?

A. I'm employed by the Cumberland County Juvenile Probation Department.

Q. Okay. When were you hired?

A. I was hired by that department in July of 1989.

Q. When did you first meet Mrs. Varner?

A. It would have -- well, she was employed by Children and Youth Services I believe between that time and 1995, whenever she came to our office. So occasionally I would speak to her on the telephone, but the contact that her and I had were very minimal between '89 and '95.

Q. Did you ever observe Mrs. Varner and Gary Graham

1 A. No.

2 Q. Did you draw any conclusions from the use of that  
3 phrase?

4 A. No.

5 Q. How often did you hear it used?

6 A. This was, of course, after Barb's employment in '95, so  
7 whenever there were interactions with Gary and Gary and  
8 Barb. It might have been once a week.

9 Q. Did you ever hear it used before she was hired by  
10 Probation?

11 A. No.

12 Q. When Mrs. Varner came on board, did you then have an  
13 opportunity to observe her interact with Graham?

14 A. Yes.

15 Q. Did she appear to be friends, to you?

16 A. Yes.

17 Q. Do you recall the time when the Probation Department  
18 split into Adult and Juvenile Probation sections?

19 A. I do.

20 Q. And I want to ask you some questions about what you  
21 remember before that split occurred.

22 A. Okay.

23 Q. Before that split occurred, did you ever observe  
24 Mr. Graham yell at Mrs. Varner?

25 A. No.

1 Q. Curse at Mrs. Varner?

2 A. No.

3 Q. Say anything sexually demeaning to Mrs. Varner?

4 A. No.

5 Q. Give Mrs. Varner arduous or burdensome assignments  
6 compared with what other new officers got?

7 A. No.

8 Q. Did you, again, before the split, did you observe  
9 Graham treat her with respect?

10 A. Yes.

11 Q. Treat her as a friend?

12 A. Yes.

13 Q. Treat her, in fact, perhaps better than he treated  
14 other people?

15 A. Yes.

16 Q. Okay. Treat her as one of his favorites?

17 A. Yes.

18 Q. Okay. When you said that you observed him treat her  
19 better than other people, can you explain to me what  
20 you meant by answering yes?

21 A. There was some favoritism, I thought, where he and Barb  
22 were seen a lot together. And if there would be any  
23 travel time when we would place children outside the  
24 county, they seemed to be traveling a lot.

25 Q. Anything else?

1 A. No.

2 Q. Did you yourself work with Mrs. Varner prior to the  
3 split? Did you ever share cases, any supervisory role?

4 A. Prior to -- I believe the split occurred in October or  
5 September of '96. I handled primarily adult offenders,  
6 so I was handling basically about 80 percent adult, 20  
7 percent juvenile. So there would be some occasions  
8 that I would have minimal contact before the split.

9 Q. Prior to the split, did you ever observe or hear  
10 Mrs. Varner complain about Gary Graham?

11 A. No.

12 Q. Did you ever observe or hear Mrs. Varner complain about  
13 having to take so many trips with Mr. Graham?

14 A. No.

15 Q. Prior to the split, did Mrs. Varner appear to accept  
16 Graham as a mentor?

17 A. Yes.

18 Q. Prior to the split, did Mrs. Varner appear to enjoy  
19 Mr. Graham's company?

20 A. Yes.

21 Q. Did you ever see Mr. Graham's attitude to Mrs. Varner  
22 change?

23 A. Yes.

24 Q. Can you tell me whether that was an abrupt or gradual  
25 change, as you recall it?

1 A. It seemed to me it was very abrupt.

2 Q. Are you able to put any kind of time frame on when that  
3 abrupt change occurred in relationship to the split in  
4 from Probation to Adult and then Juvenile sections?

5 A. It would have occurred after the split, at least when I  
6 took primarily juvenile in October of '96. So I'm  
7 thinking sometime in 1997.

8 Q. What did you notice that made you conclude there had  
9 been some kind of a change?

10 A. There was one occasion in particular that occurred,  
11 like I said, I think in 1997, where I was in the main  
12 office, which is right outside of Barb Varner's office,  
13 and there was an incident where Gary Graham had come to  
14 her office, and there was some type of disagreement and  
15 Gary became loud with her. And that was the first time  
16 that I had seen that there was some differences between  
17 the two.

18 Q. On the occasion when Mr. Graham became loud with  
19 Varner, did she also become loud with him, do you  
20 recall?

21 A. Not that I can recall, no.

22 Q. Were you able to actually hear what Mr. Graham was  
23 saying?

24 A. At the time, probably.

25 Q. Do you recall it now?

1 A. I can't recall now what it was over.

2 Q. Following the split, did you ever hear Mrs. Varner  
3 complain about Graham?

4 A. No.

5 Q. Did you ever hear Mrs. Varner complain about having to  
6 take trips with Graham?

7 A. No.

8 Q. Did Mr. Graham appear to continue to act as  
9 Mrs. Varner's mentor?

10 A. From that period of October of '96 till that date in  
11 '97, yes.

12 Q. After the split, did Mrs. Varner appear to enjoy  
13 Mr. Graham's company as you had said she did before the  
14 split?

15 A. Yes.

16 Q. You've mentioned that Graham's attitude towards Varner  
17 seemed to change. Did you ever notice Mrs. Varner's  
18 attitude to Mr. Graham change as well?

19 A. Yes.

20 Q. Okay. Would you describe that again as abrupt or  
21 gradual?

22 A. That seemed to be abrupt, also.

23 Q. And was it at the same time as Mr. Graham's attitude  
24 change?

25 A. Yes. Yes.



1 Q. The phrase jeehoobees, referring to a woman's breasts?

2 A. No.

3 Q. Have you ever seen or heard talked about the concept of  
4 female interns in your office being forced to dance on  
5 tabletops?

6 A. No.

7 Q. Have you ever heard Mr. Graham say to Mrs. Varner that  
8 she has no fucking sense, no fucking training or no  
9 fucking ability?

10 A. No.

11 Q. Other than Mrs. Varner, have you ever heard Mr. Graham  
12 yell at anybody else?

13 A. Yes.

14 Q. Have you heard him yell at everyone there?

15 A. Yes. I can't say everyone, but.

16 Q. Most people there?

17 A. Yes.

18 Q. Within the cohort of people who he's yelled at, does  
19 there appear to be any distinction between yelling at  
20 men more frequently than women, women more frequently  
21 than men?

22 A. No.

23 Q. He's an equal opportunity yeller?

24 A. Yes.

25 Q. Within the Probation office among both Probation

1 officers and clients, is the use of foul language  
2 common?

3 A. It occurs, yes.

4 Q. And when it occurs, is there a differentiation between  
5 it coming from both female as well as male probation  
6 officers?

7 A. Do you mean with our interaction with clients, or our  
8 interactions amongst ourselves?

9 Q. Let's take it first amongst yourselves.

10 A. It probably comes from males more than females.

11 Q. But there is some from females?

12 A. There could be.

13 Q. How about in interactions with clients?

14 A. Very seldom, I would think.

15 Q. Can you discuss for me whether the Probation office is  
16 in any way different from a business office where you  
17 deal with profit-making matters as opposed to criminal  
18 matters?

19 A. Well, I've been in probation since I graduated from  
20 college, so it's kind of difficult for me to compare  
21 those two. I would say there's probably very little  
22 difference.

23 Q. Very little?

24 A. Yes.

25 Q. Do you feel you've ever been harassed by your

1 superiors?

2 A. Yes.

3 Q. And harassed in what sense?

4 A. Well, there were numerous times -- and I said Gary  
5 didn't discriminate with hollering. There were a few  
6 times that Gary and I would go toe-to-toe at each  
7 other. I always said that Gary would charge, try and  
8 convict you within a matter of a few minutes over  
9 something, and so there were several incidents,  
10 probably a handful, a dozen, maybe.

11 Q. From your own observation, can you describe for me  
12 whether there's any difference in the way of  
13 Mr. Graham's conduct towards you that you thought was  
14 harassing, and his conduct towards Mrs. Varner after  
15 their relationship changed and she was no longer one of  
16 his favorites?

17 A. He appeared in that incident that occurred -- I only  
18 witnessed that one incident in late '97 or '98. It  
19 seemed to be much more vicious than any kind of  
20 conflict that I had with him.

21 Q. Other than that one incident, did you ever witness any  
22 other incident where he yelled at her or otherwise  
23 behaved inappropriately?

24 A. No.

25 Q. Mr. Graham a difficult person to get along with, in

1 your opinion?

2 A. At times.

3 Q. Does Mr. Graham appear to have favorites?

4 A. Yes, there were favorites.

5 Q. Does he appear to have people he doesn't like?

6 A. Yes.

7 Q. With regard to those people he doesn't like, is he  
8 uniformly rude to all of them?

9 A. I would say so, yes.

10 Q. Yells at all of them?

11 A. Yes.

12 Q. Acts in a belligerent manner towards all of them?

13 A. Yes.

14 Q. And those, that cohort of people he doesn't like,  
15 includes both men and women?

16 A. Yes.

17 Q. Have you ever observed anything within your office that  
18 you felt would raise a concern about Mrs. Varner's  
19 personal safety?

20 A. No.

21 MR. DELLASEGA: That's all I have.

22 BY MR. ADAMS:

23 Q. Mr. Christlieb, am I pronouncing it right?

24 A. Yes.

25 Q. Thank you. My name is Paul Lancaster Adams. I

1 A. It would have been probably sometime in 1997 or early  
2 1998.

3 Q. Can you put it in relation to this one incident you  
4 observed where Gary Graham and Barbara Varner were  
5 speaking in her office? Was that the triggering event  
6 that you noticed changed their relationship?

7 A. Yes.

8 Q. I think you said it appeared to be work related?

9 A. Yes.

10 Q. And I think you had said that Gary and you on  
11 occasioned had harsh words as well?

12 A. Yes.

13 Q. And was that work related?

14 A. Yes. That was always work related.

15 Q. When the office split -- you were asked questions about  
16 pre split and post split. Would you agree with me that  
17 as a result of the split the workload was greater on  
18 some of the people in the office?

19 A. Yes.

20 Q. Would you agree that people weren't happy about getting  
21 a greater workload?

22 A. Yes.

23 Q. Would you agree that it put more pressure on not only  
24 the probation officers but also the supervisors?

25 A. I would imagine, yes.

1 Q. And you indicated to the EEOC person, did you not, that  
2 you told the investigator that was Mr. Deluce the same  
3 thing?

4 A. Yes, I could have said that.

5 Q. Now, why would you describe him that way, sir?

6 A. Gary was very volatile. And as I said earlier,  
7 whenever he thought that you didn't do something his  
8 way, you could be charged, tried and convicted within a  
9 matter of minutes.

10 Q. Did he ever use the term punish, to you?

11 A. There might have been instances where he used that.

12 Q. And how did you take that, the use of that term?

13 A. As getting even.

14 Q. Did you believe that he had a reputation for getting  
15 even with individuals who opposed him?

16 A. Yes.

17 Q. Did you observe that, sir?

18 A. As far as the punishment statement, I can't say that  
19 there were particular employees that he would say that  
20 to. You know, I can remember in cases where he would  
21 say to an individual parolee, you know, that parolee's  
22 going to be punished, I'm going to punish him.

23 Q. Do you recall any instances where Mr. Graham said or  
24 did anything that suggested he might punish another of  
25 the probation officers?

1 A. No.

2 Q. Did you believe Mr. Graham acted in a way designed to  
3 punish Ms. Varner for any action on her part?

4 MR. MacMAIN: Objection to form.

5 BY MS. WALLET:

6 Q. You may answer.

7 A. No.

8 Q. You said that you believed that the treatment of  
9 Ms. Varner was more harsh than the treatment of some of  
10 the other probation officers. Did I get that correct?

11 A. Yes.

12 Q. Why did you say that?

13 A. Well, any differences that I would have with Gary would  
14 usually occur behind closed doors, where he would come  
15 to me more on a one-on-one basis. In this particular  
16 instance he came to Barb, and her office is near the  
17 main office, and the door was open and there were  
18 numerous people in the main office, and it was loud.

19 Q. Do you believe that it was designed to humiliate her?

20 A. Oh, I have no idea.

21 Q. Why would you tell the investigator from the county  
22 that you thought Mr. Graham was unprofessional?

23 A. Just in the way that he handled himself. For example,  
24 the incident with Barb in the office, and incidents  
25 with me, whenever he would accuse you of things that

1 A. The criteria is if you're past your day at 4:30 in the  
2 afternoon and you have your 40 hours in at the end of  
3 the week, it's time and a half.

4 Q. So someone who went on a lot of commitment trips with  
5 Mr. Graham would make more money than if they had not  
6 gone on them?

7 A. Yes.

8 MR. DELLASEGA: That's all.

9 MS. WALLET: Could we just take a five-minute  
10 break?

11 (Recess taken from 11:44 until 11:55 a.m.)

12 BY MR. DELLASEGA:

13 Q. Mr. Christlieb, I just had a few follow-up questions  
14 to follow up. Hopefully this will be the last round  
15 for everybody and we'll get you out of here.

16 You were asked some questions about you thought  
17 Gary was more harsh towards Barbara Varner, and that is  
18 Barb Varner's, the door was open, whereas on other  
19 occasions when he yelled at you the door was closed?

20 A. Correct.

21 Q. Is that correct? There's only one time you ever heard  
22 Mr. Osenkarski yell at Barbara Varner?

23 A. Yes.

24 Q. And he yelled at you 12 times?

25 A. Somewhere around there, yes.